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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,488	01/02/2002	Todd Newman	03650.001047	6983
5514	7590	08/09/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ALAVI, AMIR	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/032,488	NEWMAN, TODD	
	<b>Examiner</b> Amir Alavi	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 16 May 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-5 and 15-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 15-18 is/are allowed.

6)  Claim(s) 1-5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 02 January 2002 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## Claim Rejections - 35 USC § 101

- 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- Claim 1-5 are directed to non-statutory subject matter. " Data storage format for storing color image with.....".
- This claim is non-statutory because the terminology " Data storage format for storing color image with..... " alone has no set definition; in this regard, as recited in **MPEP 2106**, computer-related inventions are either nonfunctional descriptive material or functional descriptive material, Data structure per se fall into the second category, wherein, descriptions or structure of data, are not physical things, they are neither computer components nor statutory processes, as they are not acts being performed, such claimed data structures do not define any structural and functional interrelationships between the data and other claimed elements of a computer which permit the data structure's functionality to be realized and are only statutory when recited as being embodied in a computer-readable storage medium.

## Allowable Subject Matter

- Claims 15-18 are allowed.
- The following is a statement of reasons for the indication of allowable subject matter: The present invention is directed to a method for using data stored in data storage format for storing color image with extended gamut color values that is compatible with limited color gamut imaging systems. The independent claim identifies the uniquely distinct feature, "wherein a second section for storing information identifying image regions that have color values out of the limited gamut and a third section for storing the extended gamut color values for the image regions that are identified by the information stored in the second section". The closest prior art, McCarthy et al. (USPN 6,335,983 B1), discloses a method for representing a digital image having color values with an extended color gamut in a storage color space having a limited color gamut including providing a color adjustment function, adjusting the color values of the extended color gamut digital image to fit within the limited color gamut to form a limited color gamut digital image using the color adjustment function; while Epstein et al. (USPN 6,741,746 B2), disclose method and apparatus for processing image files, either singularly or in combination, fail to anticipate or render the above underlined limitation obvious.

## Contact Information

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amir Alavi whose telephone number is 571-272-7386.
- The examiner can normally be reached on Mon-Thu.. 8:00 am thru 6:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph Mancuso can be reached on 571-272-7695.
- The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.
- For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AA  
Group Art Unit 2621  
01 August 2005

